

AMENDATORY SECTION (Amending WSR 03-03-045, filed 1/10/03, effective 2/10/03)

**WAC 16-160-010** ~~((What is the))~~ Purpose of this ((rule?)) chapter. This chapter specifies the ~~((review))~~ process ~~((and criteria))~~ for registering ~~((brand name))~~ materials ~~((used))~~ approved for use in organic ~~((food))~~ production, processing and handling on the department's brand name materials list. This chapter is promulgated pursuant to ~~((RCW 15.86.060 in which the director is authorized to adopt rules for the proper administration of chapter 15.86 RCW and RCW 15.86.070 in which the director is authorized to adopt rules governing the certification of producers of organic food))~~ chapter 109, Laws of 2010 to implement the brand name materials list.

AMENDATORY SECTION (Amending WSR 03-03-045, filed 1/10/03, effective 2/10/03)

**WAC 16-160-020 Definitions.** As used in this chapter:

~~((1))~~ "Animal manure" means ~~((a material composed of excreta, with or without bedding materials and/or animal drugs and collected from poultry, ruminants or other animals except humans.~~

~~(2)~~ "Applicant" means the person who submits an application to register a material pursuant to the provisions of this chapter.

~~(3)~~ "Brand name material" means any material that is supplied, distributed or manufactured by a person.

~~((4))~~ feces, urine, other excrement, and bedding produced by livestock that has not been composted.

"Authorized representative" means either the registrant or a person authorized by the registrant to act on the registrant's behalf and bind the registrant for purposes of this chapter and registration on the brand materials list.

"Compost" means ~~((a material produced from a controlled process in which organic materials are digested aerobically or anaerobically by microbial action))~~ the product of a managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil.

~~((5))~~ "Crop production aid" means any substance, material, structure, or device~~((7))~~ that is used to aid a producer of an agricultural product except for fertilizers and pesticides.

~~((6))~~ "Department" means the department of agriculture of the state of Washington.

~~((7))~~ "Director" means the director of the department of agriculture or ~~((his or her duly authorized representative))~~ the director's designee.

~~((8) "Distribute" means to offer for sale, hold for sale, sell, barter, deliver, or supply materials in this state.~~

~~(9))~~ "Fertilizer" means ~~((any))~~ a single or blended substance containing one or more recognized plant nutrients which is used primarily for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.

~~((10))~~ "Label" means ~~((the))~~ a display of written, printed, or graphic ((matter)) material on ((, or attached to, the material or its)) the immediate container of an agricultural product or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.

~~((11))~~ "Labeling" includes all written, printed, or graphic ~~((matter, upon or accompanying a material, or advertisement, brochures, posters, television, and radio announcements used in promoting the distribution or sale of the))~~ material accompanying an agricultural product at any time or written, printed, or graphical material about the agricultural product displayed at retail stores about the product.

~~((12))~~ "Livestock production aid" means any substance, material, structure, or device ~~((,))~~ that is used to aid a producer in the production of livestock ~~((e.g.,))~~ such as parasiticides, medicines, feed additives((,)).

~~((13) "Material" means any substance or mixture of substances that is intended to be used in agricultural production, processing or handling.~~

~~(14))~~ "Manufacturer" means a person that compounds, produces, granulates, mixes, blends, repackages, or otherwise alters the composition of materials.

"Material" means any substance or mixture of substances that is intended to be used in agricultural production, processing, or handling.

"National Organic Program" means the program administered by the United States Department of Agriculture pursuant to 7 C.F.R. Part 205, which implements the federal Organic Food Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.).

"Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through composting. "Organic waste-derived material" does not include products that include biosolids as defined in chapter ((70.95)) 70.95J RCW.

~~((15))~~ "Person" means any ~~((individual, partnership, association, corporation, or organized group of persons whether or not incorporated))~~ natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member,

officer, or employee thereof or assignee for the benefit of creditors.

~~((16))~~ "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life or virus ~~((+))~~ except virus on or in living man or other animal~~((+))~~ which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and

(c) Any substance or mixture of substances intended to be used as a spray adjuvant ~~((+ and~~

~~((d) Any other substances intended for such use as may be named by the director by regulation))~~.

~~((17))~~ "Post-harvest material" means any substance, material, structure, or device ~~((+))~~ that is used in the post-harvest handling of agricultural products.

~~((18))~~ "Processing aid" means ~~((any material used in processing that does not become an ingredient in the food product (e.g., enzymes, boiler water additives, pressing aids, and filtering aids)))~~ a substance that is added to a food:

(a) During processing, but is removed in some manner from the food before it is packaged in its finished form;

(b) During processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; and

(c) For its technical or functional effect in the processing but is present in the finished food at insignificant levels and does not have any technical or functional effect in that food.

~~((19) "Registered material" means any material that has applied for registration under this chapter, has met the criteria for approval and has been issued written approval by the department.~~

~~((20))~~ "Registrant" means the person registering ~~((any))~~ a material ~~((pursuant to))~~ on the brand name materials list under the provisions of this chapter.

~~((21))~~ "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except for fertilizers and pesticides.

~~((22))~~ "Spray adjuvant" means ~~((any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to its application or to its effect, and which is in a package or container separate from that of the pesticide with which it is to be used))~~ any product intended to be used with a pesticide as an aid to the application or to the effect of the pesticide and that is in a package or container separate from the pesticide. Spray adjuvant includes, but is not limited to, wetting agents, spreading agents, deposit builders, adhesives, emulsifying agents, deflocculating agents, and water modifiers or similar agent with or

without toxic properties of its own intended to be used with any other pesticide as an aid to its application or to its effect. Spray adjuvant does not include products that are only intended to mark the location where a pesticide is applied.

"USDA" means the United States Department of Agriculture.

#### NEW SECTION

**WAC 16-160-120 Applications.** (1) Registration of a material on the brand name materials list is voluntary. While registration is not required for a material to be used or sold in this state, registration is necessary for a material to be included on the brand name materials list.

(2) Registration of a material on the brand name materials list under this chapter does not guarantee acceptance for use in organic production, processing, or handling by organic certifying agents other than the department. The department is not liable for any losses or damage that occurs as a result of use of a material registered on the brand name materials list.

#### NEW SECTION

**WAC 16-160-130 General application requirements.** (1) Manufacturers of materials used in organic production, processing or handling may submit an application for registration on the brand name material list to the department.

(2) Manufacturers may submit applications to the department at:

Washington State Department of Agriculture  
Organic Food Program  
P.O. Box 42560  
Olympia, WA 98504-2560.

These forms may also be found on the department's web site at:  
<http://agr.wa.gov/foodanimal/organic>

(3) Applications for registration will not be approved unless the applicant demonstrates that the material meets the requirements and standards of the National Organic Program and is approved for use in organic production, processing, or handling in accordance with the National Organic Program. Specifically, the material may not be a material prohibited for the use in the production or handling of organic products by 7 C.F.R. Section 205.105, and may not be otherwise prohibited for use in organic production and handling by the National Organic Program.

(4) All registrations expire on October 31st of the

registration year.

(5) Requests for expedited review must be submitted on a form provided by the department. If approved, expedited review is billed as provided under WAC 16-160-200.

#### NEW SECTION

**WAC 16-160-140 Initial application requirements.** (1) Applications must be submitted on the form provided by the department, and must include:

(a) Material registrant agreement in which the registrant agrees to comply with chapter 16-160 WAC.

(b) The name and address of the registrant.

(c) Manufacturer information:

(i) Name and address of the manufacturer;

(ii) Contact information, including the name and phone number of the authorized representative of the registrant; and

(iii) List of all material manufactured at the same facility as the registered material.

(d) The brand name that the material is sold under.

(e) A copy of the label or bill of lading accompanying the material and a statement of all claims made for it, including directions and precautions for use.

(f) The complete formula or any alternate formulations for the material, including active and inert ingredients:

(i) Supplier of each ingredient;

(ii) Percentage of ingredient in the final formula; and

(iii) Purpose of each ingredient in the formula.

(g) Ingredient information for each ingredient listed in the formula (including alternate formulas) sufficient to demonstrate compliance with the standards of the National Organic Program:

(i) Manufacturing process; and

(ii) Formulation, including active and inert ingredients.

(h) A description of the manufacturing process for the material, including all substances used for the extraction and synthesis process, if appropriate. If the manufacturing facility manufactures materials other than the material listed in the application, the application must include a plan to prevent the contamination or commingling of materials allowed or prohibited in organic agriculture.

(i) A flow chart, indicating movement of material from incoming ingredient to outgoing final material. The flow chart may include, but is not limited to:

(i) Storage facilities;

(ii) Equipment location; and

(iii) Shipping facilities.

(j) The intended use of the material.

(k) The required fee for registration.

(l) Signature by authorized representative.

(m) The department may request additional information related to the items above as necessary to demonstrate that the material meets the standards of the National Organic Program.

(2) Applications for fertilizers and pesticides must submit verification of a valid registration from the WSDA pesticide management division.

(3) In addition to the information required in this section, a registrant who is packaging or distributing a material manufactured by another person or manufacturer or are otherwise not responsible for the processing or production of the final product must submit a statement from the manufacturer of the material granting the department access to the manufacturing facility and authorizing inspections in accordance with WAC 16-160-180.

#### NEW SECTION

**WAC 16-160-150 Renewal application requirements.** (1) Renewal applications must be submitted on the form provided by the department, and must include the following:

(a) Material registrant agreement in which the registrant agrees to comply with chapter 16-160 WAC;

(b) Name(s) of the material(s) seeking renewal;

(c) Name and address of the manufacturing facility(ies) for each registered material;

(d) Notification of changes to the original application;

(e) Signature of authorized representative; and

(f) The required fee for renewal. Renewal applications postmarked after October 31st must include the appropriate late fee as listed under WAC 16-160-200.

(2) Registrants who package or distribute a material manufactured by another person or manufacturer or are otherwise not responsible for the processing or production of the final product must annually submit a statement from the manufacturer of the material granting the department access to the manufacturing facility and authorizing inspections in accordance with WAC 16-160-180.

(3) Full disclosure of the complete formula of the material, including active and inert ingredients, is required every five years.

#### NEW SECTION

**WAC 16-160-160 Updating an application.** If any changes to the information provided in an initial or renewal application occurs at any time after the application is submitted, the registrant must immediately submit the corrected information to the department for review. This information includes, but is not limited to, changes in material formulation, ingredient suppliers, manufacturing facilities or processes, labels or other production or marketing processes. The corrected information must be provided in writing. Failure by the registrant to provide correction to the information provided in an application may result in suspension or revocation of the registration.

#### NEW SECTION

**WAC 16-160-170 Confidential information.** Any information provided to the department under this chapter that the registrant desires to claim as exempt from disclosure under the provisions of chapter 42.56 RCW, the Public Records Act, or as a trade secret under chapter 19.108 RCW, the Uniform Trade Secrets Act, or other statute must be clearly designated as confidential. However, the determination of whether the information is exempt from disclosure will be based solely upon chapter 42.56 RCW or other applicable law.

#### NEW SECTION

**WAC 16-160-180 Inspections.** (1) By applying for registration on the brand name materials list, the registrant expressly grants to jurisdiction of the state of Washington in all matters related to the registration.

(2) By applying for registration on the brand name materials list, the registrant expressly grants the department or other organic certifying agent or inspection agent approved by the National Organic Program the right to enter the registrant's premises during normal business hours or at other reasonable times to:

(a) Inspect the portion of the premises where the materials, inputs or ingredients are stored, produced, manufactured, packaged or labeled;

(b) Inspect records related to the sales, storage, production, manufacture, packaging or labeling of the material, inputs or ingredients; and

(c) Obtain samples of materials, inputs or ingredients.

(3) Inspections may be conducted as a condition of ongoing compliance, after receiving an initial or a renewal application, notification of a change to an application, upon receipt of a complaint, or as required by the National Organic Program. Inspections may be announced or unannounced.

(4) Registrants who package or distribute a material manufactured by another person or manufacturer or are otherwise not responsible for the processing or production of the final product must annually submit a statement from the manufacturer of the material granting the department access to the manufacturing facility and authorizing inspections. The signed consent must be on a form provided by the department.

(5) Should the registrant or manufacturer refuse to allow inspection of the premises or records or fail to provide samples, the registration on the brand name materials list is canceled as provided under WAC 16-160-220. The department shall deny applications for registration where the registrant refuses to allow the inspection of the premises or records, fails to provide samples as provided in this section, or fails to provide the department with the consent described in subsection (4) of this section.

(6) Inspections must be documented on a form approved by the department. Inspections conducted by an inspection body other than the department will be accepted when a review determines that the inspection document is sufficient to demonstrate compliance with the standards of the National Organic Program.

#### NEW SECTION

**WAC 16-160-190 Recordkeeping requirements.** (1) Registrants must maintain records sufficient to verify that the materials are approved for use in organic production, processing, or handling and comply with the standards of the National Organic Program. These records may include:

(a) Records pertaining to incoming raw materials:

(i) Invoices/bills of lading;

(ii) Transportation documentation;

(iii) Material safety data sheets;

(iv) Storage documentation.

(b) Production records:

(i) Material formulations;

(ii) Dates of production;

(iii) Amount of ingredients used in each batch;

(iv) Amount of final materials;

(v) Sampling and/or laboratory analyses;

(vi) Lot identification and tracking;

(vii) Other records maintained during manufacturing.

(c) Finished material records:



- (i) Packaging documentation;
  - (ii) Sales documentation;
  - Purchase orders;
  - Receipts;
  - Shipping documents;
  - (iii) Storage documentation.
- (2) Records shall be maintained for six years.

#### NEW SECTION

**WAC 16-160-200 Fees.** The following fees apply to applicants and registrants to the brand name materials list.

(1) **Initial material registration:**

(a) The application fee for initial registration of a pesticide, spray adjuvant, processing aid, livestock production aid or post-harvest material is five hundred dollars per material.

(b) The application fee for initial registration of a fertilizer, soil amendment, organic waste derived material, compost, animal manure or crop production aid is four hundred dollars per material.

(2) **Renewal registration:** The application fee for renewing a registration for a pesticide, spray adjuvant, processing aid, livestock production aid or post-harvest material is three hundred dollars per material. The application fee for renewing a registration for a fertilizer, soil amendment, organic waste derived material, compost, animal manure or crop production aid is two hundred dollars per material.

(3) **Late fees:** Renewal applications postmarked after October 31st must include a late fee in addition to the renewal fee. Renewal applications received after February 2nd will not be accepted.

If your application is postmarked after October 31st but before:	Then the late fee is:
December 1	\$100
January 1	\$200
February 1	\$300

(4) **Inspections:** Inspections conducted by the department, including report writing, will be billed at forty dollars per hour plus travel costs and mileage which shall be charged at the rate established by the state office of financial management. Fees assessed for inspections conducted by third-party inspection agencies are established by that agency. Registrants may contact the inspection agency to determine the applicable fee for those inspections.

(5) **Samples:** Chemical analysis of samples, if required for registration or renewal, or obtained during an inspection, will be

charged to the applicant at a rate established by the department of agriculture or at the cost for analyses performed by another laboratory.

(6) **Expedited evaluation fees:** Requests for expedited reviews may be submitted and, if approved, are billed at the rate of forty dollars per hour.

#### NEW SECTION

**WAC 16-160-210 Labels and logos.** A person whose material is registered under this chapter may use the words "approved material under Washington state department of agriculture organic food program" and may use the logo specified in this section in the labeling of the material. Registered materials are not certified as organic by the department and are prohibited from making claims indicating products are "certified organic" or similar term. Materials that are not registered under this chapter are prohibited from using the statement or the logo in this section in the labeling of the material. In addition to the other limitations expressed in this chapter and chapter 15.86 RCW, registration does not imply the Washington department of agriculture endorses the use of the product, does not make any guarantee that the material performs as represented by the registrant, and does not guarantee acceptance for use in organic production by certifying agents other than the department.



NEW SECTION

**WAC 16-160-220 Suspension, revocation, cancellation, and denial of registrations.** (1) Registrations on the brand name materials list, and applications for registration, are governed by chapter 34.05 RCW. The director may deny, suspend, cancel, or revoke a registration on the brand name materials list if the director determines that a registrant has failed to meet the registration criteria established under chapter 15.86 RCW or chapter 16-160 WAC, or violated any other provision under chapter 15.86 RCW or chapter 16-160 WAC.

(2) Application or registrations will be revoked, canceled, or denied if a material fails to meet the standards for approval or is no longer approved for use in organic production, processing, or handling by the National Organic Program.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-160-030	Do I need to register my brand name material with the organic food program?
WAC 16-160-035	Brand name materials list.
WAC 16-160-040	How do I apply for registration?
WAC 16-160-050	When do registrations expire?
WAC 16-160-060	What criteria are used to determine if a brand name material is approved?
WAC 16-160-070	Application fees.
WAC 16-160-080	Inspections.
WAC 16-160-090	Denial or revocation of a registration.
WAC 16-160-100	Labeling of registered brand name materials and use of organic logo.
WAC 16-160-110	Organic material registration logo.